संख्या-14/2016/1720/86-2016-135/2016

प्रेषक,

डा0 गुरदीप सिंह ,
प्रमुख सचिव,
उ0प्र0 शासन।

सेवा में,

निदेशक,
भूतत्व एवं खनिकर्म,
उ0प्र0 लखनऊ।

भूतत्व एवं खनिकर्म अनुभाग लखनऊ दिनांक 02 जून, 2016

विषय- मा0 राष्ट्रीय रहित न्यायाधिकरण नई दिल्ली में विचाराधीन रिट पिटीशन संख्या-202/1995 (एमए-1166/2015) टी0एम0 गोडावर्मन थिरूमल्कपाद बनाम यूनियन ऑफ इण्डिया व अन्य में पारित आदेश दिनांक 04.05.2016 के अनुक्रम में कार्यवाही किये जाने के सम्बन्ध में।

महोदय,

उपर्युक्त विषयक सचिव, वन एवं वन्यजीव, अनुभाग-2, दिनांक 13 मई, 2016 (छायाप्रति संलग्नकों सहित संलग्न) का कृपया सन्दर्भ ग्रहण करने का कष्ट करें।

2. प्रश्नगत प्रकरण में अवगत कराया गया है कि मा0 राष्ट्रीय रहित न्यायाधिकरण नई दिल्ली में विचाराधीन रिट पिटीशन संख्या-202/1995(एमए-1166/2015) टी0एम0 गोडावर्मन थिरूमल्कपाद बनाम यूनियन ऑफ इण्डिया व अन्य में मा0 अधिकरण द्वारा दिनांक 04.05.2016 को आदेश पारित किया गया है, जिसका कार्यकारी अंश इस प्रकार है :-

a. The orders passed by the Forest Settlement Officers for exclusion 1083.231 hectares of the land notified under Section 4 of Indian Forest Act are declared null and void as the settlement proceedings directed by the Supreme court was finalized several years prior to M/s. JAL obtained right over the land and also because the Forest Settlement Officer or the Additional District Judge has no power to exclude the said lands from the notification issued under Section 4 which has already been finalized. The fact that no notification under Section 20 in respect of the said land were issued by the state, as against the unambiguous direction of the Supreme Court and the solemn assurance made to the Supreme Court by the state, and as per the judgement on determination of the appeal the order of the Additional District Judge would become final and is an order passed under the Forest Act, will not empower the Forest Settlement Officer or the Additional District Judge to entertain any subsequent application in respect of already settled lands. In view of the declaration by the Hon'ble Supreme Court in Banwasi Seva Ashram case dated 20th November, 1986 the order of the Additional District Judge would be final and the Government had to implement the order. The failure of the State Government to notify the said lands as reserved forest would not enable the State Government or the Forest Settlement Officer to exclude the very same land, when earlier it was found that the lands cannot be excluded and the order has already become final and nobody exercised the liberty reserved by the Supreme Court in the judgment to approach the court if directions are necessary. Therefore, renewal of the mining lease, in favour of M/s. JAL can only be after obtaining prior approval of Central Government as provided under Section 2 of Forest (Conservation) Act, 1980 and that too on payment of NPV and other payments warranted under law. In respect of 256.176 hectares which form part of the Kaimur Wildlife Sanctuary additionally prior approval of the National Board for Wildlife and the Hon'ble Supreme Court is necessary to renew the lease.

b. The State of U.P. shall cancel all mining leases whether fresh or renewal and all other non-forestry activities on the areas notified under Section 4 of the forest Act for which settlement

rights have been finalized pursuant to the Judgement in Banavasi Seva Asram case dated 20th November, 1986 and shall ensure that there is no nonforest activity including mining in any such land without the permission/approval of the Hon'ble Supreme Court.

c. The notification under Section 20 of Indian Forest Act shall be issued immediately in respect of the lands falling in Tehsil Dudhi and Robertganj, in accordance with the findings in this judgement modifying the one issued earlier, including all the lands for which settlement proceedings were carried out as per the Judgement dated 20th November, 1986 and become final.

d. The State of UP shall take appropriate action to protect and conserve the forest and prevent any violation of the provisions of FC Act and the rules. The state shall also take appropriate action against all the officers found liable for the failure to take action including non publication of the notification under section 20 of the Forest Act as directed by the Supreme Court and thereby prevented the implementation of the directions of the Supreme Court.

अतः इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि मा0 राष्ट्रीय रहित न्यायाधिकरण नई दिल्ली में विचाराधीन रिट पिटीशन संख्या-202/1995(एमए-1166/2015) टी0एम0 गोडावर्मन थिरूमल्कपाद बनाम यूनियन ऑफ इण्डिया व अन्य में मा0 अधिकरण द्वारा दिनांक 04.05.2016 को पारित आदेश का अनुपालन तत्काल सुनिश्चित कराने का कष्ट करें।

संलग्नक-यथोपरि

भवदीय,

डा0 गुरदीप सिंह
प्रमुख सचिव।

संख्या- (1)/86-2016 तददिनांक -:

प्रतिलिपि, निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यदायी हेतु प्रेषित :-

(1) सचिव, वन एवं वन्यजीव अनुभाग-2, उ0प्र0 शासन।

(2) नेट प्रति (शासनादेश अपलोड करने हेतु)/गार्ड फाइल।

आज्ञा से,

(गेन्दन लाल)
संयुक्त सचिव।